

Serial No. 09/978,452

AUG 18 2006

Patent
Attorney Docket No.: PD-201129**REMARKS**

By this amendment, claims 1-52 and 54-56 are pending, in which no claim is cancelled, withdrawn, currently amended, or newly presented.

The final Office Action mailed June 20, 2006 rejected claims 1-5, 7-8, 11, 13-15, 27-31, 33, 34, 37, 39-41, and 54-56 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* (US 6,249,913) in view of *Wright et al.* (US 6,047,165) and in further view of *Booth et al.* (US 5,835,127), claims 6 and 32 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *Humpleman* (US 5,579,308), claims 9 and 35 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *Schwab* (US 6,353,699), claims 10 and 36 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *Ahmad* (US 5,565,908), claims 12 and 38 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *Rosin et al.* (US 6,028,600), claims 16 and 42 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *McCarten et al.* (US 5,959,596), claims 17 and 43 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* in view of *McCarten et al.* and in further view of *Ahmad* (US 5,565,908), claims 18-21 and 44-47 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *Volpe et al.* (US App. Pub. 2001/0032028), claims 22-24 and 48-50 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* and in further view of *Neel et al.* (US 5,838,314), and claims 25, 26, 51, and 52 as obvious under 35 U.S.C. § 103(a) based on *Galipeau et al.* in view of *Wright et al.* in view of *Booth et al.* in view of *Neel et al.* and further in view of *Dedrick* (US 5,724,521).

Independent claim 1 recites "wherein said multimedia server is configured to distribute, over said aircraft multimedia communications network, multimedia in-flight to a device of a

Serial No. 09/978,452

Patent
Attorney Docket No.: PD-201129

passenger for purchasing by said passenger, the multimedia being selected pre-flight via a web server in communication with the multimedia server." Claim 27 recites "distributing, via said multimedia server, over said aircraft multimedia communications network, multimedia in-flight to a device of a passenger for purchasing by said passenger, the multimedia being selected pre-flight via a web server in communication with the multimedia server." Claim 54 recites "means for distributing, via said multimedia server, over said aircraft multimedia communications network, multimedia in-flight to a device of a passenger for purchasing by said passenger, the multimedia being selected pre-flight via a web server in communication with the multimedia server." Claim 55 recites, "selecting, pre-flight, one of the options for purchase of a corresponding one of the plurality of multimedia via a web server coupled to the multimedia server."

The current Office Action, on page 3, continues to apply *Wright et al.*, citing col. 7, lines 6-32, to disclose "the multimedia is selected pre-flight," however, now applies *Galipeau et al.* to satisfy "the multimedia being selected via a web server . . . in communication with the multimedia server." The Examiner changes his position after having previously acknowledged that *Galipeau et al.* failed to disclose the claimed web server (*see* Office Action, April 5, 2006, page 3), and presently asserts that *Galipeau et al.* teaches "[t]he passenger selects content to view from the internet server" referring to internet server 192 of FIGs. 9A and 12, and citing col. 7, lines 18-27, (*see* Office Action, June 20, 2006, page 3). This peculiarity perhaps stems from the fact that the *Galipeau et al.* system utilizes "pre-flight" periods for pre-loading the aircraft system with cached content and reveals that passengers are prohibited from using electronic devices during low elevation periods arguably including "pre-flight" periods. Further, the Office Action is so intently focused on the claimed features of "via a web server" that the Examiner fails to recognize that *Wright et al.* still does not teach that the uploaded information is "selected pre-flight," (*see* Applicant Response, June 5, 2006, pages 11-12) (illustrating, previously, the "pre-flight" deficiency). In essence, the Examiner ignores the fact that the

Serial No. 09/978,452

Patent
Attorney Docket No.: PD-201129

references would not motivate one of ordinary skill in the art to modify the airborne internet server 192 to be accessible by a passenger before flight.

Specifically, *Galipeau et al.* discloses an aircraft data management system wherein a "data network interface module 114 supports two way communication and transmits data from the individual passenger seat locations back the head end controller that may contain an airborne internet server," (see col. 7, lines 19-22). To this effect, FIG. 9 and its accompanying text reveal that internet server 192 communicates with an onboard internet mass storage unit 190 that is "pre-loaded, typically before the aircraft becomes airborne," with the current content of approximately 10,000 of the most common internet sites, (see col. 10, lines 47-60). In this manner, individual passengers access to this content is limited to "during flight" periods, (col. 10, lines 53-55). Further, for safety considerations, "the use of on-board electronic devices is usually prohibited when the aircraft is at an elevation of below 10,000 feet," (col. 10, lines 27-29). As such, one of ordinary skill in the art would only reasonably interpret *Galipeau et al.* as intending to provide an airborne internet server 192 only accessible during flight since pre-flight periods are used to prepare mass storage unit 190 for later airborne access. Further, even if the content were available, for safety reasons, passengers are prohibited from using electronic devices that would enable them to access the content.

Similarly, the passage the Examiner relies on within *Wright et al.*, namely col. 7, lines 6-32, at best, only suggests pre-flight preparation for uploading information, not providing access to that information for pre-flight passenger selection. Applicant reminds the Examiner that this deficiency was first illustrated in Applicant's previous Response dated June 5, 2006. Further, because the uploaded information may include passenger service/entertainment data, as well as, sensitive aircraft data, such as aircraft parameter-exceedence limits and navigational flight plans, from a security standpoint, *Wright et al.* would not prudently suggest allowing pre-flight passenger access to this information, (see col. 7, lines 16-23). As such, the Examiner's assertion that "preparing for the next flight or series of flights" is what motivates the

Serial No. 09/978,452

Patent
Attorney Docket No.: PD-201129

combination of references to teach "the multimedia is **selected pre-flight** via a web server" is conjured and forced. Nothing within *Galipeau et al.* or *Wright et al.* would lend itself to "multimedia is selected pre-flight" as pre-flight periods are only utilized for uploading data. Further, from safety and security perspectives, both of the applied references would reasonably lead one of ordinary skill away from incorporating pre-flight access.

As a result, Applicant respectfully reminds the Examiner that it "is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." *See In re Wesslau*, 147 USPQ 391 (C.C.P.A. 1965). *See also* M.P.E.P. § 2141.02. Moreover, it is impermissible to use the claimed invention as an instruction manual to piece together isolated disclosures within the prior art. *See, e.g., In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). Instead, the required motivation to combine the references must "be found in the prior art, and not based on applicant's disclosure." *See* M.P.E.P. § 2143. Further, the test for obviousness is what the combined teachings of the references would have reasonably taught, suggested, or implied to one of ordinary skill in the art, not what the Examiner inserts thereafter. *See, e.g., Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988), *cert. denied*, 488 U.S. 825 (1988).

Furthermore, the several other secondary references do not cure the deficiencies of the combination of *Galipeau et al.* and *Wright et al.* *Booth et al.* is applied for a supposed disclosures "that the multimedia is purchased by the passenger (page 3, Office Action). The Office Action, on page 10, relies on *Humpleman* for a supposed teaching of wherein the network interface device (50 – Fig. 4) decrypts multimedia received in the program stream." Also, the Office Action, on page 11, asserts that "*Schwab* discloses wherein the custom software decompresses multimedia." *Ahmad* is relied upon for a supposed disclosure of "wherein the software is proprietary" (page 11, Office Action). *Rosin* is applied for a supposed

Serial No. 09/978,452

Patent
Attorney Docket No.: PD-201129

disclosure of "wherein the menu on said device of said passenger for selection of one or more of said multiple streams of said multimedia" (page 12, Office Action). Also, the Office Action applies *McCarten et al.* for a supposed disclosure of "wherein the application software (software device) is downloaded to the client." *Volpe et al.* is relied upon (page 14, Office Action) for a disclosure of "wherein the server offers the capability to the user to have the file mailed." *Neel et al.* and *Dedrick* are utilized for supposed disclosures of "wherein the system distributes user-specific advertisements based on past video services selection history" and "wherein the user profile data [sic] based on the monitoring of consumer actions and inactions," respectively (pages 17 and 19, Office Action).

Accordingly, even assuming the applied references were properly combined based on some teaching or suggestion in the references, and assuming the modifications proposed in the Office Action were justified by additional teachings or suggestions found in the references, even the combinations do not render the claimed invention obvious. Specifically, none the references taken alone, or in combination, teaches or suggests **"the multimedia being selected pre-flight via a web server."**

From the above, it is clear that a *prima facie* case for obviousness has not been established. Applicant, therefore, respectfully solicits withdrawal of the rejections of record, and urges the indication that independent claims 1, 27, 54, and 55, as well as claims 2-26, 28-52, and 55, depending correspondingly therefrom, are in condition for allowance.

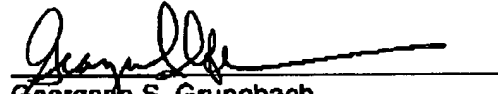
Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration of this application is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (310) 964-4615 so that such issues may be resolved as

Serial No. 09/978,452

Patent
Attorney Docket No.: PD-201129

expeditiously as possible. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,


Georgann S. Grunebach
Attorney for Applicant
Registration No. 33,179

The DIRECTV Group, Inc.
CALA1/A109
2230 E. Imperial Highway
P. O. Box 956
El Segundo CA 90245

Telephone No. (310) 964-4615